

Message Text

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67

ACTION AF-06

INFO OCT-01 EUR-12 ISO-00 IO-10 SS-15 NSC-05 SCS-03 SCA-01

L-03 /056 W
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R 171205Z JUL 75

FM AMEMBASSY PRETORIA
TO SECSTATE WASHDC 2282
INFO AMCONSUL CAPE TOWN
AMCONSUL DURBAN
AMCONSUL JOHANNESBURG
AMEMBASSY LODDON
AMEMBASSY PARIS
USMISSION USUNNY

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E.O. 11652: N/A
TAGS: PINS, WA, CASC
SUBJ: SAG ANSWERS US DEMARCHE ON MRS. WOOD'S EXPULSION FROM
NAMIBIA

REF: A) PRETORIA 2399, (B) STATE 162840, (C) PRETORIA 2568

FOLLOWING IS TEXT, MINUS COMPLIMENTARY OPENING AND CLOSING, OF
NOTE DELIVERED TO EMBASSY AT NOON TODAY (BUT DATED JUNE 16)
IN RESPONSE TO EMBASSY'S AIDE MEMOIRE OF JUNE 21 AND NOTE 293
OF JUNE 27 (REF A) ON EXPULSION OF BISHOP RICHARD JAMES WOOD
AND HIS WIFE CATHLEEN WOOD FROM NAMIBIA:

QUOTE: BISHOP WOOD WAS A SOUTH AFRICAN CITIZEN WHEN THE EXPULSION
ORDER WAS SERVED ON HIM. IT FOLLOWS THAT THE UNITED STATES
GOVERNMENT HAS NO JURISDICTION OVER HIM AND CONSEQUENTLY NO
RIGHT OR DUTY UNDER INTERNATIONAL LAW TO INTERCEDE ON HIS
BEHALF. THERE IS, HOWEVER, NO OBJECTION TO INFORMING THE
EMBASSY THAT IN ORDERING BISHOP WOOD'S EXPULSION, THE ADMINIS-
TRATOR (NOT THE LEGISLATIVE ASSEMBLY, AS STATED IN THE AIDE
MEMOIRE) ACTED PROPERLY WITHIN THE LAWFUL POWERS CONFERRED UPON
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HIM BY THE UNDESIRABLES REMOVAL PROCLAMATION, 1920, INASMUCH AS
HE WAS SATISFIED THAT BISHOP WOOD'S CONTINUED PRESENCE IN THE

TERRITORY WAS CONTRARY TO THE BEST INTERESTS OF ITS INHABITANTS. BISHOP WOOD HAD, OVER THE YEARS, INVOLVED HIMSELF IN POLITICAL RATHER THAN IN CHURCH MATTERS TO SUCH AN EXTENT THAT HIS PRESENCE SERVED TO UNDERMINE THE PEACE, ORDER AND GOOD GOVERNMENT OF THE TERRITORY. IN FACT, ON TWO OCCASIONS THE HON. THE PRIME MINISTER TOOK THE MATTER UP WITH THE ARCHBISHOP IN CAPE TOWN.

IN THE CASE OF MRS. WOOD, AN AMERICAN CITIZEN, IT SHOULD BE POINTED OUT THAT HER ADMISSION TO AND PRESENCE IN SOUTH WEST AFRICA WAS CONDITIONAL UPON HER HUSBAND'S PRESENCE THERE. HIS EXPULSION EFFECTIVELY REMOVED THE ONLY LEGITIMATE REASON FOR HER CONTINUED RESIDENCE IN THE TERRITORY. IF, AS STATED IN NOTE NO. 293, MRS. WOOD WAS FORCIBLY EXPelled, THIS WAS BECAUSE SHE OTHERWISE REFUSED TO LEAVE. IT SHOULD ALSO BE POINTED OUT THAT THE MEASURE OF FORCE USED WAS MINIMAL, SINCE MRS. WOOD WAS MERELY ESCORTED TO THE AIRPORT AND PLACED ON BOARD A JOHANNESBURG-BOUND AIRCRAFT. MOREOVER, THE SOUTH AFRICAN GOVERNMENT IS SATISFIED THAT ADEQUATE OPPORTUNITY WAS AFFORDED MRS. WOOD AND HER HUSBAND TO SAFEGUARD THEIR PROPERTY AND FAMILY. INASMUCH AS MRS. WOOD AND HER HUSBAND OCCUPIED CHURCH PROPERTY AND HAD FEW POSSESSIONS BEYOND THE LANDROVER USED BY BISHOP WOOD TO DEPART THE TERRITORY, THE SOUTH AFRICAN GOVERNMENT IS OF THE OPINION THAT THE TIME ALLOWED MRS. WOOD TO PACK HER POSSESSIONS AND SAFEGUARD HER PROPERTY WAS MORE THAN ADEQUATE. HER REFUSAL TO COMPLY WITH THE EXPULSION ORDER WAS MOTIVATED NOT BY ANY ALLEGED INADEQUACY OF THE NOTICE, BUT BY A DETERMINATION NOT TO LEAVE UNTIL OBLIGED TO DO SO. THE SOUTH AFRICAN GOVERNMENT CAN THEREFORE IN NO WISE AGREE THAT THE MANNER OF MRS. WOOD'S EXPULSION VIOLATED THE MINIMUM STANDARD OF PROTECTION WHICH MUST BE AFFORDED TO AN INDIVIDUAL.

DUE NOTE HAS ALSO BEEN TAKEN OF THE VIEW OF THE UNITED STATES GOVERNMENT THAT INTERNATIONAL LAW REQUIRES THAT AN EXPELLING STATE MUST ACCORD AN INDIVIDUAL CERTAIN PROCEDURAL RIGHTS, "INCLUDING PROVISION FOR ADEQUATE NOTICE OF THE SPECIFIC REASONS FOR THE EXPULSION AND OPPORTUNITY FOR THE INDIVIDUAL (AND HIS OR HER GOVERNMENT) TO HAVE A HEARING ON AND RESPOND TO ALLEGATIONS UNDERLYING THE DEPORTATION." WHATEVER THE PRACTICE OF THE UNITED STATES, THE SOUTH AFRICAN GOVERNMENT IS UNABLE TO
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AGREE THAT THIS IS A REQUIREMENT OF INTERNATIONAL LAW--MORE ESPECIALLY IN CASES WHERE THE SECURITY OF THE STATE IS INVOLVED. IN ANY CASE THE PERSON PRIMARILY CONCERNED WAS A SOUTH AFRICAN CITIZEN WHOSE WIFE WAS IN THE TERRITORY BECAUSE OF THE PRESENCE OF HER HUSBAND.

IN REGARD TO THE VIEW OF THE UNITED STATES GOVERNMENT THAT THE APPLICATION OF THE UNDESIRABLES REMOVAL PROCLAMATION, 1920, IN THE TERRITORY OF SOUTH WEST AFRICA IS ILLEGAL UNDER INTERNATIONAL LAW, THE SOUTH AFRICAN GOVERNMENT WISHES TO REITERATE ITS WELL-

KNOWN POSITION THAT IT DOES NOT RECOGNIZE THAT THERE EXISTS IN INTERNATIONAL LAW ANY OBLIGATION UPON IT TO WITHDRAW ITS ADMINISTRATION FROM THE TERRITORY. THE PREMISE THAT IT IS, IN FACT, UNDER SUCH AN INTERNATIONAL LEGAL OBLIGATION, RESTS EXCLUSIVELY UPON A MANIFESTLY UNCONSTITUTIONAL DECISION TAKEN BY THE UNITED NATIONS GENERAL ASSEMBLY ON 27 OCTOBER 1966 (RESOLUTION 2145 (XXI)). THE SOUTH AFRICAN GOVERNMENT CANNOT ACCEPT THAT THE GENERAL ASSEMBLY WAS LEGALLY COMPETENT TO TAKE SUCH A DECISION. THE GOVERNMENT HAS STATED PREVIOUSLY THAT IT WILL WITHDRAW FROM THE TERRITORY WHEN THE LATTER'S INHABITANTS HAVE EXERCISED THEIR RIGHT TO SELF-DETERMINATION, AND THIS REMAINS ITS POSITION. UNQUOTE.

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